

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

X

THE NEW YORK TIMES COMPANY and
CHARLIE SAVAGE,
:
Plaintiffs, :
- against - : **COMPLAINT**
OFFICE OF MANAGEMENT AND BUDGET,
:
Defendant.
:
X

Plaintiffs THE NEW YORK TIMES COMPANY and CHARLIE SAVAGE (jointly, “The Times”), by their undersigned attorneys, allege as follows:

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), to obtain an order for the production of agency records from the Office of Management and Budget (“OMB”) in response to a request properly made by Plaintiff.

PARTIES

2. Plaintiff The New York Times Company publishes *The New York Times* newspaper and www.nytimes.com. The New York Times Company is headquartered in New York.

3. Defendant Office of Management and Budget is an agency of the federal government that has possession and control of the records that Plaintiff seeks.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

5. Venue is proper in the District of Columbia under 5 U.S.C. § 552(a)(4)(B).
6. Plaintiffs have exhausted all administrative remedies available in regard to the request at issue. *See* U.S.C. § 552(a)(6)(C).

FACTS

7. On September 26, 2019, The Times submitted a FOIA request to OMB, seeking “all email correspondence between Michael Duffey and Robert Blair from May 1 [2019] to the present.”
8. On September 27, 2019, OMB acknowledged receipt of the request and assigned it FOIA number 19-486.
9. On October 29, 2019, The Times appealed the delay and constructive denial of the request.
10. OMB has not responded to The Times’s appeal or communicated in any way with The Times regarding The Times’s request since its September 27, 2019 acknowledgment of receipt.

FIRST CAUSE OF ACTION

11. Plaintiff repeats, realleges, and reincorporates the allegations in the foregoing paragraphs as though fully set forth herein.
12. OMB is an agency subject to FOIA and must therefore release in response to a FOIA request any disclosable records in its possession at the time of the request and provide a lawful reason for withholding any other materials as to which it is claiming an exemption.
13. OMB’s failure to make a reasonable effort to search for the records requested by The Times violates FOIA, 5 U.S.C. § 552(a)(3)(C), and OMB’s corresponding regulations.

14. OMB's failure to make promptly available the records requested by The Times violates FOIA, 5 U.S.C. § 552(a)(3)(A), and OMB's corresponding regulations.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

15. Declare that the documents sought by the requests, as described in the foregoing paragraphs, are public under 5 U.S.C. § 552 and must be disclosed;

16. Order OMB to undertake an adequate search for the requested records and provide those records to Plaintiffs within 20 business days of the Court's order;

17. Award Plaintiffs the costs of this proceeding, including reasonable attorney's fees, as expressly permitted by FOIA; and

18. Grant Plaintiffs such other and further relief as this Court deems just and proper.

Dated: New York, New York
November 26, 2019

/s/ David E. McCraw

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